

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ROBERT ALLEN AND KEVIN SHARPE,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.  
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**STIPULATION OF  
SETTLEMENT AND ORDER  
OF DISMISSAL**

10 CV 5394 (BMC)

**WHEREAS**, plaintiffs ROBERT ALLEN and KEVIN SHARPE commenced this action by filing a complaint on or about November 22, 2010, alleging that the defendants violated their federal civil and state common law rights; and

**WHEREAS**, defendants have denied any and all liability arising out of plaintiffs' allegations; and

**WHEREAS**, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

**WHEREAS**, plaintiffs have authorized their counsel to settle this matter on the terms set forth below;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff ROBERT ALLEN the sum of twenty-two thousand five hundred dollars (\$22,500.00) and plaintiff KEVIN SHARPE the sum of nineteen thousand dollars (\$19,000.00), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of these sums, plaintiffs agree to dismissal of all claims against the defendants, THE CITY OF NEW YORK, UNDERCOVER OFFICER # C0127, UNDERCOVER OFFICER # C0033, DETECTIVE TOM STANTEN, shield # 3417, JOHN AND JANE DOES 1-3, and to release all defendants, and any present or former employees and agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses, and attorneys' fees.

3. Plaintiffs shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, General Releases based on the terms of paragraph "2" above and Affidavits of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, plaintiffs shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or

bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. Plaintiffs agree to hold harmless THE CITY OF NEW YORK, UNDERCOVER OFFICER # C0127, UNDERCOVER OFFICER # C0033, DETECTIVE TOM STANTEN, shield # 3417, JOHN AND JANE DOES 1-3, regarding any liens or past and/or future Medicare payments, presently known or unknown in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
March 29, 2011

Richard J. Cardinale, Esq.  
*Attorney for Plaintiffs*  
26 Court Street, Suite 1815  
Brooklyn, NY 11242  
Tel: 718-624-9391

By: \_\_\_\_\_

Richard J. Cardinale, Esq.  
*Attorney for Plaintiffs*

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants*  
100 Church Street | 3-170  
New York, NY 10007  
T: 212-374-3431  
F: 212-788-9776  
Email: [adeitch@law.nyc.gov](mailto:adeitch@law.nyc.gov)

By: \_\_\_\_\_

Adam W. Deitch  
*Special Assistant Corporation Counsel*

SO ORDERED:

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HON. BRIAN M. COGAN  
U.S. DISTRICT JUDGE